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S E C R E T SECTION 01 OF 02 RPO DUBAI 000486

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SUBJECT: IRAN: JUSTICE GETS PERSONAL

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REASON: 1.4 (b), (d)

¶1. (C) SUMMARY: Iran's Revolutionary Courts have issued preliminary sentences for roughly half of the more than one hundred political prisoners detained by the regime in the wake of the disputed presidential election. In terms of severity, the sentences run the gamut from Canadian/Iranian citizen Maziar Bahari, who was allowed to leave Iran in mid-October after posting \$300,000 bail, to American/Iranian citizen Kian Tajbakhsh, who was given between twelve and fifteen years in prison for "acting against national security." As yet, no defendant has been found innocent of the charges, and the average prison sentence seems to be between three and six years.

Many of the most high-profile detainees, including several senior reformist figures who "confessed" to trying to subvert the election in televised show trials, remain in prison and still have not been charged with specific crimes.

¶2. (C) SUMMARY CONT: Viewed in composite, the disposition of these cases reveals no discernible pattern, legal or otherwise. Charges against the detainees range from capital offences such as espionage and "waging war against God" to disrupting traffic. The regime seems to determine each individual's fate on a case-by-case basis as it labors to create a narrative to gloss over its own clumsy election manipulation and to simultaneously keep a lid on popular discontent and fractures within the ruling elite. The process is arbitrary, but not random. Factors that play into the outcomes appear to include international pressure, a detainee's connections with those in power, his ongoing utility as a lever against the opposition, and (particularly in the case with senior reformist figures) the opportunity to settle political grudges. Finally, as noted by the Public Prosecutor himself, one should not assume that those being released on bail are immune from subsequent prosecution. END SUMMARY.

Revolutionary Courts Begin Issuing Sentences

¶3. (C) The regime is now moving to sort out the fates of the activists, journalists and intellectuals arrested after the presidential election. Important factors appear to include international pressure, the utility of a particular individual as a lever against the regime's political opposition, the

detainee's health, identity features such as dual nationality, and personal vengeance in the context of the long-running political cage fight between conservatives and reformers. Adding to the confusion, depending on the particulars of each case, the same variable can either contribute to a decision to release a detainee or condemn him to a heavy prison sentence.

14. (C) For example, while international pressure likely played a determining role in the recent releases of Newsweek correspondent Maziar Bahari and renowned women's rights activist Shadi Sadr, it appears to have had the opposite effect on the case of Kian Tajbakhsh, who was sentenced October 18 to a minimum of twelve years in prison despite having no link to any political group or role in the election protests. IRPO contacts argue that Tajbakhsh, a dual Iranian-American citizen formerly employed by the Soros Foundation, is likely too valuable a bargaining chip for the regime to concede as Iran enters negotiations with the U.S. over its nuclear program. The Canadian Bahari on the other hand, is less "marketable" than the American Tajbakhsh to the small segment of Iranians willing to believe the regime's narrative; in addition, complications to Bahari's wife's pregnancy likely lent a public relations cost to his continued detention. Unlike every other detainees released on bail (and contrary to Iranian law), Bahari was allowed to leave Iran.

15. (C) A closer look at senior reformist figures targeted by the regime again demonstrates Iran's arbitrary approach to dispensing 'justice.' Numerous former senior Khatami-era officials remain behind bars. Some, such as former Vice President Mohammad Ali Abtahi, have complied with regime demands for public 'confessions'; others, such as former Khatami spokesman Abdollah Ramezanzadeh and the outspoken reformers Mostafa Tajzadeh and Behzad Navabi, have yet to confess and reportedly remain under intense pressure from interrogators.

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These men have long been targets of many of the same hardline conservatives who are now overseeing their persecution. A political scientist who fled Iran after the election hypothesized recently that the regime is unnerved by Ramezanzadeh, Tajzadeh and Navabi and will likely hold them indefinitely. Another contact also singled out this trio, observing that while Mir Hossein Mousavi and former President Khatami remain "loyalists" to the system, these men are "outraged" and if released, could supplant the opposition leadership and instigate more aggressive resistance to the government.

16. (C) Other high profile reformers, including top aides to presidential candidates Mousavi and Karrubi, were arrested months after the initial round-up in a likely attempt to intimidate Mousavi and Karrubi. A political analyst and IRPO contact noted that the mid-September arrest of former Tehran mayor Mortaza Alviri was a clear "message" to Karrubi after he publicized prisoner abuse to include rape, but that when Karrubi did not stand down the political cost of keeping Alviri, a widely-respected political figure, in jail outweighed the benefit to the regime. Alviri was released on bail October 31 amid speculation that long-stand ties between Supreme Leader Khamenei's family and Alviri's family prompted the decision.

17. (C) Health concerns also appear to be a factor driving releases. As one IRPO contact observed, "the government can't afford to have more people die in their jails right now." Thus reformist theoretician Saeed Hajjarian, who needs round-the-clock medical attention as a result of a politically-motivated attempt on his life in 2000, was released

on bail on September 30 after receiving a suspended five-year sentence. Similarly, reformist journalist and Karrubi press advisor Hengameh Shahidi was released November 1 in failing health as the result of a hunger strike in prison.

Making It Up As They Go Along

¶18. (S/NF) Further exposing the nature of the judicial process, some detainees have been charged and convicted of crimes that do not legally exist, according to a human rights activist based outside of Iran. These include being "manipulated by false information" and "sending defamatory photos abroad," among others. The Judiciary has released little official information about the convictions, but reports indicate that most of the sentences fall within the range of prison terms between three and six years, primarily for "acting against national security" and "propaganda against the system." In some cases, the same charge has resulted in vastly disparate fates: Tajbakhsh remains in prison for espionage while political analyst Bijan Khajepour, also charged with espionage, was released on \$500,000 bail in late September. According to Khajepour's family, he was told informally by a regime official that the odds the government will actually try him are fifty-fifty.

¶19. (C) Judicial officials have made little pretense of observing Iranian laws and procedural rules. Defendants have been denied their right to choose their own attorneys, bail in some cases has been set then rescinded, court orders for family visits have been disregarded by jailers. Though judicial officials have stated these "preliminary sentences" may be appealed, a human rights organization reports that authorities are trying to block some appeals by refusing to accept required paperwork or intimidating court-appointed attorneys.

¶10. (C) COMMENT: Though the seemingly contradictory mix of releases on one hand and heavy jail terms on the other hand would appear to defy logic, a closer look at the detainees' individual circumstances reveals that regime officials are making relatively complex cost-benefit calculations as they mete out punishment to their political enemies and to create scapegoats for the consequences of badly-managed electoral fraud. END COMMENT.
EYRE